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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,723	07/24/2003	Shinichi Shimoda	500.42966X00	8116

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EXAMINER

VUONG, QUOCHIE B

ART UNIT PAPER NUMBER

2618

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/625,723	SHIMODA ET AL.	
	Examiner	Art Unit	
	Quochien B. Vuong	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 8-13 is/are rejected.
- 7) ☒ Claim(s) 2,6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/24/03 & 7/28/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 07/24/2003 and 07/28/2005 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Mueller et al. (US 6,185,413).

Regarding claim 3, Mueller et al. disclose a mobile communication terminal device (figure 1) having a first physical interface (GSM -11) for making a communication to the outside, a second physical interface (DECT1 - 12) different in scheme from said first physical interface, and a selection switching determination unit (4) for selecting one from said first and second physical interfaces to switch to the selected physical

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interface, said mobile communication terminal device comprising: a communication determination unit (17) for determining whether or not each of said first and second physical interfaces is available for a communication (column 7, lines 30-38); and a position detection unit for detecting the position of said mobile communication terminal device (column 6, lines 9-12; and column 9, lines 30-35), wherein said selection switching determination unit makes a selection switching based on the communication availability determined by said communication determination unit, and the position detected by said position detection unit (column 7, line 39 – column 8, line 31; and column 9, lines 27-40).

Regarding claim 4, Mueller et al. disclose the mobile communication terminal device further comprising: a memory (18) for storing the position detected by said position detection unit, and a physical interface used at said position, wherein said selection switching determination unit makes the selection and switching based on the communication availability determined by said communication determination unit, the position detected by said position detection unit, and the position and the used physical interface stored in said memory (column 7, lines 30-38).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller et al. in view of Spaur et al. (US 6,122,514).

Regarding claim 1, Mueller et al. (figure 1) disclose a mobile communication terminal device having a first physical interface (GSM -11) for making a communication to the outside, a second physical interface (DECT1 - 12) different in scheme from said first physical interface, and a selection switching determination unit (4) for selecting one from said first and second physical interfaces to switch to the selected physical interface, said mobile communication terminal device comprising: a communication determination unit (17) for determining whether or not each of said first and second physical interfaces is available for a communication (column 7, lines 30-38); and a position detection unit for detecting the position of said mobile communication terminal device (column 6, lines 9-12; and column 9, lines 30-35), wherein said selection switching determination unit makes a selection switching based on the communication availability determined by said communication determination unit, and the position

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detected by said position detection unit (column 7, line 39 – column 8, line 31; and column 9, lines 27-40). Mueller et al. do not specifically disclose a movement determination unit for determining a moving speed of said mobile communication terminal device; and wherein said selection switching determination unit makes a selection switching also based on the moving speed determined by said movement determination unit. However, Spaur et al. disclose a mobile communication terminal device comprising a movement determination unit for determining a moving speed of said mobile communication terminal device; and selection of network channel based on the moving speed determined by said movement determination unit (column 12, lines 36-47; and column 13, line 43 – column 14, line 3). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the movement determination unit and the selection of network channel based on the moving speed determined by said movement determination unit of Spaur et al. to the mobile communication terminal device of Mueller et al. in order to select the interface having more advantage with highest or desired suitability value.

As to claim 5, Mueller et al. disclose the mobile communication terminal device of claim 3 above. Mueller et al. do not specifically disclose wherein said position detection unit acquires information on the position from outside. However, Spaur et al. disclose a mobile communication terminal device comprising a position detection unit which acquires information on the position from outside (figure 1, GPS 74) (column 12, lines 38-44). Therefore, it would have been obvious to adapt the GPS of Spaur et al. to the

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mobile communication terminal device of Mueller et al. in order to obtain a precise location information.

As to claims 8 and 9, Mueller et al. and Spaur et al. disclose the mobile communication terminal device of claim 1 above; in addition, Mueller et al. disclose a display unit 7 (figure 1) for displaying selected or entered telephone numbers, and operation message of the mobile station (column 6, lines 52-60) and if not inherent it would be obvious for the display unit of Mueller et al. to be able to display the first or second physical interface which is in use, or the communication availability determined by said communication determination unit in order to inform the user of what service provider is available or in use.

As to claim 10, Mueller et al. and Spaur et al. disclose the mobile communication terminal device of claim 1 above; in addition, Mueller et al. disclose the mobile communication terminal device further comprising: a memory (18) for storing the position detected by said position detection unit, and a physical interface used at said position, wherein said selection switching determination unit makes the selection and switching based on the communication availability determined by said communication determination unit, the position detected by said position detection unit, and the position and the used physical interface stored in said memory (column 7, lines 30-38).

As to claim 11, Mueller et al. and Spaur et al. disclose the mobile communication terminal device of claim 1 above; in addition, Spaur et al. disclose wherein said position detection unit acquires information on the position from outside (figure 1, GPS 74) (column 12, lines 38-44).

8. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller et al.

As to claims 12 and 13, Mueller et al. and Spaur et al. disclose the mobile communication terminal device of claim 1 above; in addition, Mueller et al. disclose a display unit 7 (figure 1) for displaying selected or entered telephone numbers, and operation message of the mobile station (column 6, lines 52-60) and if not inherent it would be obvious for the display unit of Mueller et al. to be able to display the communication availability determined by said communication determination unit, or the first or second physical interface which is in use in order to inform the user of what service provider is available or in use.

Allowable Subject Matter

9. Claims 2, 6, and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 2, Mueller et al. and Spaur et al. disclose the mobile communication terminal device of claim 1 above. However, Mueller et al. and Spaur et al. fail to teach or fairly suggest the mobile communication terminal device above wherein said selection switching determination unit waits a longer time until switching of said physical interface when said movement determination unit determines the moving speed being faster.

Regarding claim 6, Mueller et al. and Spaur et al. disclose the mobile communication terminal device of claim 1 above. However, Mueller et al. and Spaur et al. fail to teach or fairly suggest the mobile communication terminal device above wherein said selection switching determination unit selects one of a plurality of priorities for said first or second physical interface in accordance with the moving speed determined by said movement determination unit.

Regarding claim 7, Mueller et al. and Spaur et al. disclose the mobile communication terminal device of claim 1 above. However, Mueller et al. and Spaur et al. fail to teach or fairly suggest the mobile communication terminal device above further comprising: a priority setting unit for setting a priority of said selection switching determination of said first or second physical interface in said selection switching determination unit.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wortham (US 5,913,170) discloses locating system and method using a mobile communications network.

Hermansson et al. (US 5,987,319) disclose call-setup method in a digital cellular radio communication system.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quochien B. Vuong whose telephone number is (571) 272-7902. The examiner can normally be reached on M-F 9:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QUOCHIE B. VUONG
PRIMARY EXAMINER

Quochien B. Vuong
April 16, 2006.